

CLAUSE I-121 – SMALL BUSINESS SUBCONTRACTING PLAN (August 2002)

NOTE: This clause is applicable, when contracting by negotiation, in solicitations and subcontracts that offer subcontracting possibilities, are expected to exceed \$500,000, and are required to include the clause Utilization of Small Business Concerns.

- (a) This clause does not apply to small business concerns.
- (b) "Commercial Item" means a product or service that satisfies the definition of commercial item in FAR Section 2.101.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option period), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract," means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for performance of the subcontract or lower-tier subcontract.

- (c) The offeror, upon request by the Subcontracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which separately addresses subcontracting with small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual subcontract plan, the plan must separately address subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns with a separate part for the basic subcontract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant subcontract. The subcontracting plan shall be negotiated within the time specified by the Subcontracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a subcontract.
- (d) The offeror's subcontracting plan shall include the following:
 - (1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all lower-tier subcontracts that contribute to subcontract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.
 - (2) A statement of –
 - (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of project subcontracts to support the sales for a commercial plan;
 - (ii) Total dollars planned to be subcontracted to small business concerns;
 - (iii) Total dollars planned to be subcontracted to HUBZone small business concerns;
 - (iv) Total dollars planned to be subcontracted to small disadvantaged business concerns;
 - (v) Total dollars planned to be subcontracted to women-owned small business concerns
 - (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to –
 - (i) small business concerns
 - (ii) HUBZone small business concerns
 - (iii) small disadvantaged business concerns
 - (iv) Women-owned small business concerns.
 - (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) above.
 - (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration,

the list of certified small disadvantaged business concerns of the SBA, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small and women-owned small business source list. A firm shall rely on the information contained in SBA's list of small disadvantaged business concerns as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small disadvantaged source list. Use of PRO-Net and/or the SBA list of small disadvantaged business concerns as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with –
 - (i) small business concerns
 - (ii) HUBZone small business concerns
 - (iii) small disadvantaged business concerns
 - (iv) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause in this subcontract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility), to adopt a plan similar to the plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will –
 - (i) cooperate in any studies or surveys as may be required,
 - (ii) submit periodic reports in order to allow the Government or SURA to determine the extent of compliance by the offeror with the subcontracting plan,
 - (iii) submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause; and
 - (iv) ensure that its subcontractors agree to submit SF294 and SF295.
- (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):
 - (i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
 - (ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.
 - (iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether HUBZone small business concerns were solicited and if not, why not; (C) whether small disadvantaged business concerns were solicited and if not, why not, (E) whether women-owned small business concerns were solicited and if not, why not; and (F) if applicable, the reason award was not made to a small business concern.
 - (iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, (C) conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources.
 - (v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the program's requirements.

- (vi) On a contract-by-contract basis, records to support award data submitted by the Offeror to the Government or SURA, including the name, address, and business size of each subcontractor. Subcontractors having company or division-wide annual plans need not comply with this requirement.
- (e) In order to effectively implement this plan to the extent consistent with efficient subcontract performance, the Subcontractor shall perform the following functions:
 - (1) Assist small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Subcontractor's lists of potential small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
 - (2) Provide adequate and timely consideration of the potentialities of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
 - (3) Counsel and discuss subcontracting opportunities with representatives of small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
 - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small, small disadvantaged or women-owned small business for the purpose of obtaining a subcontract that is to be included as part of all of a goal contained in the Subcontractor's subcontracting plan.
- (f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by (d) above, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided –
 - (1) the master plan has been approved,
 - (2) the offeror provides copies of the approved master plan and evidence of its approval to the Subcontracting Officer, and
 - (3) goals and any deviations from the master plan deemed necessary by the Subcontracting Officer to satisfy the requirements of this subcontract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for subcontractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government or SURA business, rather than solely to the Government or SURA subcontract. Commercial plans are also preferred for subcontracts that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Subcontracting Officer in determining the responsibility of the offeror for award of the subcontract.
- (i) The failure of the Subcontractor or lower-tier subcontractor to comply in good faith with –
 - (1) the clause of this subcontract entitled "Utilization of Small Business Concerns" or
 - (2) an approved plan required by this clause, shall be a material breach of the subcontract.
- (j) The Subcontractor shall submit the following reports:
 - (1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Subcontracting Officer semiannually and at subcontract completion. This report covers subcontract award data related to this subcontract. This report is not required for commercial plans.
 - (2) Standard Form 295, Summary Subcontract Report. This report encompasses all the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group.